

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**LARRY CARR, JR.,**

**PLAINTIFF**

**V.**

**NO. 4:04CV189-P-D**

**CHARLES THOMAS, ET AL,**

**DEFENDANTS**

**ORDER DISMISSING COMPLAINT PURSUANT TO RULE 41(B)**

Plaintiff is a state prisoner who is proceeding *pro se* in this § 1983 complaint. The parties were ordered on December 8, 2004, by Magistrate Judge Jerry Davis to file witness and exhibit lists within 120 days, and plaintiff was warned that failure to comply with the requirements of this order may lead to the dismissal of his lawsuit under Rule 41(b), Federal Rules of Civil Procedure, for failure to prosecute and for failure to comply with an order of the court. The defendants filed a witness and exhibit list on December 15, 2004.

On August 4, 2005, the undersigned issued an order to plaintiff telling him that since he had not complied with the magistrate judge's order to file a witness and exhibit list he would be given another opportunity to do so. He was ordered to file the list no later than August 25, 2005, and was again warned that failure to comply with the requirements of the order may lead to the dismissal of his lawsuit. The deadline passed more than 30 days ago, and plaintiff has failed to submit the witness and exhibit list as ordered. Rule 41(b), Federal Rules of Civil Procedure, provides, *inter alia*,

For failure of the plaintiff to prosecute or to comply with  
these Rules or any order of the court defendant may move for  
dismissal of an action or of any claim against him.

Even though the Rule speaks in terms of dismissal on motion of a defendant, it is now settled that the court has the inherent authority to dismiss *sua sponte* for want of prosecution. *Link v.*

*Wabash Railroad*, 370 U.S. 626 (1962); *Lopez v. Aransas County Independent School District*, 570 F.2d 541, 544 (5 Cir. 1978).

Therefore, it is hereby

**ORDERED** that the cause be dismissed without prejudice pursuant to Rule 41(b), Federal Rules of Civil Procedure, for failure to comply with an order of the court and for failure to prosecute.

THIS the 26<sup>th</sup> day of September, 2005.

/s/ W. Allen Pepper, Jr.  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE